

CANNON BUILDING
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STATE OF DELAWARE
DEPARTMENT OF STATE

DIVISION OF PROFESSIONAL REGULATION

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MEETING MINUTES:	BOARD OF PROFESSIONAL LAND SURVEYORS
DATE AND TIME:	Thursday, May 17, 2012 at 8:30 a.m.
PLACE:	861 Silver Lake Boulevard, Dover, Delaware Conference Room A , second floor of the Cannon Building
APPROVED:	June 21, 2012

MEMBERS PRESENT

Michael Szymanski, Professional Member, Chair
James Bielicki, Jr., Professional Member, Vice Chair
Thomas Plummer, Professional Member
Kenneth Monroe, Public Member

DIVISION STAFF

Patricia Davis-Oliva, Deputy Attorney General
Sandra Wagner, Administrative Specialist III

MEMBERS ABSENT

Mary Chvostal, Public Member, Secretary
Laurence McBride, Professional Member
Mark Rosenthal, Public Member

PUBLIC

There were no members of the public in attendance.

CALL TO ORDER

Mr. Szymanski called the meeting to order at 8:33 a.m.

Review and Approval of Minutes

Mr. Plummer made a motion, seconded by Mr. Bielicki, to approve the April 19, 2012 minutes. The motion carried unanimously.

Unfinished Business

Review of Joseph Maxcy's Application

The Board had previously tabled Mr. Maxcy's application until clarification could be obtained from the Board's attorney on whether Mr. Maxcy would have to take the Delaware Drainage and Jurisprudence exam again. Ms. Davis-Oliva reviewed the law and the Rules & Regulations in reference to Mr. Maxcy's application by reciprocity. Mr. Maxcy held a professional license with the Board from 1996 to 2007. Ms. Davis-Oliva found nothing in the law or Rules & Regulations requiring an applicant take the exams again if they previously obtained a passing score. Mr. Bielicki made a motion, seconded by Mr. Monroe, to grant licensure by reciprocity to Mr. Maxcy. The motion carried unanimously.

NEW BUSINESS

Courses for Continuing Education Approval

Mr. Plummer reviewed the information received from the Maryland Society of Surveyors for PDHs and recommended approval. Mr. Plummer made a motion, seconded by Mr. Bielicki, to approve the Maryland Society of Surveyors' "Hands on Learning Lab: ArcGIS Desktop 10.1" for **8.0 PDHs**, "Title vs. Tidal" for **4.0 PDHs**, and "Mock Trial: Green vs. WSSC" for **4 PDHs**. The motion carried unanimously.

Mr. Plummer reviewed the information received from Stephen Johns for PDHs regarding American Society of Civil Engineers and recommended approval. Mr. Plummer made a motion, seconded by Mr. Bielicki, to approve "Practical Application of Lidar" for **7 PDHs**. The motion carried unanimously.

Mr. Plummer reviewed the information received from Paul Hayden for PDHs regarding CADapult, LTD. and recommended approval. Mr. Plummer made a motion, seconded by Mr. Bielicki, to approve "Infrastructure Seminar Series: Survey Event" for **4 PDHs**. The motion carried unanimously.

Mr. Plummer reviewed the information received from CADapult, LTD for PDHs and recommended approval. Mr. Plummer made a motion, seconded by Mr. Bielicki, to approve "Civil 3D JumpStart for Surveyors-Civ-102" for **6 PDHs**. The motion carried unanimously.

Review of Applications for Examination

There were no applications for examination to review.

Review of Application for Reciprocity

There were no applications for reciprocity to review.

Review of Application for Surveyor Intern

There were no applications for surveying interns to review.

Discussion on Professional Land Surveyor Retired Status

Mr. Szymanski discussed creating a retired status for the Professional Land Surveyor. Mr. Szymanski had copies of a Maryland statute. Ms. Davis-Oliva discussed some options with the Board, including creating an "inactive" status that would accomplish the same objectives Mr. Szymanski identified. That is, providing licensees a status by which they could elect to stop working as a land surveyor for a period of time, be excused from CE and renewal requirements, but still have the option of reactivating their license and start working again if they could demonstrate the recent completion of some amount of PDH. Other professional

licensing boards have this option, but the term is “inactive” and not “retired.” The Board of Professional Land Surveyors may be able to create a status entitled “retired” that would operate logistically in the same manner other boards operate their “inactive” members, but this would have to be done with legislation, and the Division would have the final approval authority over the terminology. Ms. Davis-Oliva will draft a statute and some regulations based on what other boards have for the Board to review before making any decision on whether to move forward with creating this new licensure status. Further discussion will be added to the agenda at a future Board meeting.

Discussion of House Bill 347

Ms. Kay Warren addressed the Board about HB 347 that was released on 5/16/2012 from the House Committee. Ms. Davis-Oliva stated this bill does not address any licensing issue. Ms. Warren asked if the Board would be taking an official position on this legislation. Mr. Szymanski stated he saw no conflict between the proposed bill and the primary & secondary objectives of the Board. Mr. Szymanski expressed concern regarding a possible conflict of interest for the professional members. The Board will not take a position either in support of or opposition to this bill.

NCEES Zone Meeting Report

Mr. Szymanski discussed some of the highlights from the NCEES Zone Meeting held at Dover Downs from May 3rd to May 5th.

1. Computer based testing vs. written standardized national examination – The NCEES is moving to an entirely computer-based testing procedure and the Board members discussed Delaware's law and Rules & Regulations pertaining to testing and the changes that will have to be made to conform to the new process. In addition, Mr. Szymanski related the following changes to the testing procedure that were shared at the NCEES meeting:
 - a. FS EXAM (fundamentals) will be computer based beginning January 2014. FS will now be a closed book exam.
 - b. PS EXAM (Principals & Practice) will become a closed book exam effective Spring 2013.
 - c. Reference manuals will be supplied to applicants for preview prior to testing; however, applicants will not be permitted to bring these reference manuals into the exam. Clean reference manuals will be provided on the day of the test.
 - d. Physics & Chemistry have been dropped from the exam.
2. Discipline
 - a. State regulatory boards were encouraged to require licensees to notify the boards of every state in which the licensee holds a license if they are disciplined – including what the licensee did, the board finding, and penalty imposed. This led to a discussion of a national practitioner databank. While NCEES implied that such a national databank exists, neither Mr. Szymanski nor Ms. Davis-Oliva were able to find it. Ms. Davis-Oliva advised that the absence of a national practitioner databank explains the NCEES's suggestion that state boards require reporting to one another. Nonetheless, Ms. Davis-Oliva advised she would follow up with the executive director of the DAPE to inquire about the existence of any national databank where land surveyor discipline may be recorded.

- b. Mr. Szymanski related that the NCEES identified a loophole in some states where licensees are permitted to voluntarily surrender their licenses when they are notified they are under investigation and thereby avoid disciplinary action. Ms. Davis-Oliva advised that Delaware does not have a mechanism whereby voluntary surrender of licensure may be effectuated, and further, all professional licensing boards have taken the position that the jurisdiction to discipline any licensee for any disciplinable offense that occurred while licensed remains even if the status at the time of the hearing is unlicensed.

3. PDHs

- a. Mr. Szymanski related that he understands the DAPE will be implementing mandatory PDH for its licensees. The Board members discussed how this will affect persons with dual licenses. This Board should consider the best way to address this so that a dual licensee is not over-burdened with completing PDHs for two Boards.
- b. A discussion took place at the Zone meeting regarding more stringent guidelines in accepting PDH requests.
- c. Mr. Szymanski inquired if the Board could require licensees who fail to comply with PDH audit requests at the time of renewal to demonstrate compliance with a prior renewal period as well as the most recent renewal period. Ms. Davis-Oliva advised that the Board's Rules & Regulations currently require licensees to maintain records of PDHs obtained for at least five years. Thus, if it is possible, it would certainly have to be limited to only a five year look-back period. Further, it would require at least a regulation change. Ms. Davis-Oliva is going to research the audit language in the Division's statute and will advise the Board at its next meeting if the jurisdiction exists for such a requirement.

4. Misc.

- a. Mr. Szymanski related that the NCEES meeting including a discussion of the shrinking pool of surveyors. Attendees discussed possible reasons for this which included the economy and more stringent education requirements. Positives of more stringent education requirements were presented.
- b. Mr. Szymanski discussed the NCEES's view that licensure is based on the "3 E's": education, experience, & examination.
- c. Mr. Szymanski related that brokered surveys are becoming a problem in other states. These are surveys promoted by national firms not authorized to practice in the state. Land Surveyors working for these firms are signing and sealing surveys without proper Certificates of Authorization. The Board members discussed brokered surveys and whether such a practice would violate Delaware law.
- d. Mr. Szymanski informed the Board that the NCEES is discussing the creation of a model law that would include the requirement of a property survey for every conveyance of property.
- e. Finally, Mr. Szymanski encourage the other Board members to consider attending the next NCEES national meeting that will be held in August in St. Louis, Missouri.

Ratification of Issuance of Land Surveying Certificates of Authorization

There were no Certificates of Authorization for review.

Review of Audit

There were no audits to review.

Complaint Assignments

There were no new complaint assignments.

Complaint Status

There were no new complaints received in April.

Hearings/Consent Agreements/Board Orders/Recommendations
Recommendations from Hearing Officer

The recommendations of the hearing officers as well as the Board's final orders may be viewed in their entirety on-line on the Division website.

Robins Gilliss, Jr.

Mr. Bielicki made a motion, seconded by Mr. Monroe, to accept the recommendation from the hearing officer. The motion carried unanimously. A final order was signed by the Board members who were present.

Charles Fralinger

Mr. Bielicki made a motion, seconded by Mr. Plummer, to accept the recommendation from the hearing officer with one amendment to the recommended discipline. The completion date for the ethics PDH requirement shall be extended from 45 days to January 1, 2013 as PDHs in ethics are somewhat scarce but usually available in the Fall. The motion carried unanimously.

Leslie Cordel Sherrill

Mr. Bielicki made a motion, seconded by Mr. Monroe, to accept the recommendation from the hearing officer with one amendment to the recommended discipline that the completion date for the PDH in ethics requirement be extended from 45 days to January 1, 2013 as PDHs in ethics are somewhat scarce but usually available in the Fall. The motion carried unanimously.

Joseph Filippone

Mr. Bielicki made a motion, seconded by Mr. Monroe, to table the recommendation from the hearing officer until the next Board meeting, pending the determination of whether the PDHs were awarded from an on-line or in-person class. Ms. Wagner will get clarification from Mr. Filippone and report back to the Board at its next meeting. The motion carried unanimously.

Closed Complaints

There were no closed complaints.

Wall Certificates

Vincent Monreal

The Board Secretary being absent, the wall certificate for Mr. Monreal will be signed at the June meeting.

OTHER BUSINESS BEFORE THE BOARD (FOR DISCUSSION ONLY)

Mr. Szymanski asked Ms. Davis-Oliva about Mr. Early challenging the Board's composition at its last meeting. Ms. Davis-Oliva advised that the Attorney General's office previously opined that if a Board member is statutorily qualified at the time they are seated and subsequent events render them disqualified, the disqualifying event does not automatically effect the removal of the Board member nor, for that matter, does it mean that her/his acts done under the color of authority can be challenged.

PUBLIC COMMENT

There was no public comment.

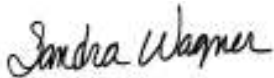
NEXT MEETING

The next meeting of the Board is June 21, 2012 at 8:30 a.m. in Conference Room A, second floor of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware.

ADJOURNMENT

There being no further business before the Board, Mr. Bielicki made a motion, seconded by Mr. Plummer, to adjourn the meeting at 11:06 a.m. The motion carried unanimously.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Sandra Wagner". The signature is fluid and cursive, with the first name "Sandra" being more prominent than the last name "Wagner".

Sandra Wagner
Administrative Specialist III